

Request for Comments regarding Executive Order No. 13369

Submitted by:

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Categories of submitter: Individuals

PRESIDENT'S ADVISORY
PANEL
ON FEDERAL TAX REFORM
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Request for Comments regarding Executive Order No. 13369

Comments:

Current 401K rules are outdated and unfairly limit the amounts individuals can contribute to their company 401K plans. They are discriminatory to certain individuals based on the specific company they work for and their earnings.

The rule restricting "highly compensated" individuals on the amount they can contribute to their company's 401k plans needs revising. Currently, employees earning more than \$92,000 per year are restricted in the amounts they can contribute based on non-discrimination compliance test results of their company's 401k plan. It is ironic that these *non-discrimination compliance* tests are in themselves discriminatory. They select certain income level individuals working for specific companies, and deny these individuals the right to contribute to the full amount to their 401k plans, while allowing others earning much higher incomes to fully contribute without any restrictions.

The situation arises when a company has poor participation in their 401K plan by those not considered "highly compensated". The highly compensated individual is not allowed to contribute fully to their 401K plan, because others chose not to contribute or not to contribute at higher levels. We should not have rules that prohibit or restrict an individual in their contributions to a 401K plan based on the refusal of others to participate or contribute fully.

There are individuals that earn more than a million dollars a year, and they can contribute the maximum 401K contribution of \$13,000 in 2004, and yet we have others earning only \$98,000 a year that are told that they can only contribute \$7,200 to their 401K plan (similar to my personal situation). This isn't fair to allow the super wealthy to fully contribute to their 401K plan, and then not allow others to fully contribute to their company's plan just because they work for a different company that doesn't have enough of the lower end wage earners contributing. This appears to be very discriminating, as it is solely based on the company you work for and not your total earnings.

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The way it currently stands, individuals considered "highly compensated" and working for companies in the lower wage segment industries such as agriculture are discriminated from fully participating in their company's 401K plan because the lower wage earners cannot or choose to not participate fully in their 401K program, and anyone earning over \$92,000 and working for these same companies will be denied the ability to fully contribute to their 401K plan. While, those "highly compensated" individuals working in higher paying industries, will be able to fully contribute to their 401K plan just because their typical wage earner has more money and contributes to their company's 401K plan.

Why should someone earning less than \$100,000 a year be denied contributions to their 401K plan, and yet someone earning over a Million dollars a year be allowed to fully contribute? This rule limiting an individual's desire to fully contribute to their company's 401K plan in this day and age of uncertainty regarding the future Social Security retirement programs, seems indefensible. The rule needs to be changed

I request that the rules restricting contributions be reviewed and changed to allow fair and full contributions regardless of an individual's income or the company one is employed with.

Sincerely,

Gary Rotatori